

D/L. 56.
September 13, 2023.
MNS

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (NDPS) 713 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 08.09.2023 in connection with Jaigaon Police Station Case No. 280 of 2022 dated 28.11.2022 under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Shyamal Routh

.... Petitioner

Mr. Sourav Ganguly,
Mr. Bibek Tarafder,
Mr. Gopal Roy

... for the petitioner

Mr. Abhijit Sarkar,
Mr. Chattu Roy

... for the State.

1. Learned counsel for the petitioner has raised certain suspicious circumstances to shed some doubt on the presumption under Section 37 of the NDPS Act.
2. Although the prayer for bail of the petitioner was rejected lastly on July 4, 2023, it is contended that certain components of the case were not argued before the co-ordinate Bench. It is argued that the petitioner is already in custody for 287 days. That apart, the petitioner acted as an election agent for his wife, who is an active member of the opposition party to the ruling party of the State in the Panchayat elections.

3. That apart, the petitioner apprehends that the other co-accused persons named in the FIR do not exist at all and are fictitious, since they are allegedly absconding for an indefinite period.
4. Learned counsel appearing for the State strongly opposes the prayer for bail and submits that the allegation as to political rivalry was raised before the co-ordinate Bench at the time of previous rejection of bail and was dealt with.
5. That apart, it is contended that huge commercial quantity of contraband articles were found on the petitioner.
6. A perusal of the order of refusal of bail passed by the co-ordinate Bench on July 4, 2023 shows that the court recorded that the petitioner had placed reliance on photocopies of some documents upon which it was contended that the petitioner had been forcibly implicated on account of political rivalry, which is explicit from the photocopies of the documents.
7. However, in the ordering portion, there is no reflection that the said issue was considered or turned down by the co-ordinate Bench in so many words. The Bench merely observed that it found no justifiable reason to disbelieve the contents of the charge and the seizure list.
8. That apart, we find that the petitioner is already in custody for 287 days, but the trial is still at a nascent stage, in view of the co-accused persons allegedly absconding.
9. There is justification in the petitioner's apprehension that the said absconding persons may not exist at all or may not be

apprehended in the near future, which might prolong the period of incarceration of the petitioner indefinitely.

10. Keeping in view of such allegations of the petitioner and the justified apprehension on such score, we are inclined to grant bail to the petitioner.

11. Accordingly, CRM (NDPS) 713 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act, Jalpaiguri .

12. The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend the trial on each and every date.

13. The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)